

**ECAR RESPONSES TO THE QUESTIONS POSED IN THE DOE
“NOTICE OF INQUIRY”
ON
ELECTRIC RELIABILITY ISSUES**

Question 1 – Is the existing arrangement of voluntary compliance with industry reliability rules sufficient to ensure reliability of the bulk power transmission system? If not, why not, and has reliability been jeopardized by violations of the existing bulk power reliability standards?

ECAR Response – As suggested in the transmittal letter for ECAR’s comments, we believe that competitive pressures on the host of both old and new players in the evolving electric power market will make it difficult to maintain the historically high level of bulk electric system reliability under the existing arrangement of voluntary compliance with the reliability “Rules of the Road”. In 1999, ECAR experienced serious violations of some of the existing reliability standards which led ECAR to take action to obtain ECAR membership and FERC approval to implement an Inadvertent Energy Sanction Mechanism which includes economic penalties for “leaning on the ties”.

Question 2 – What can FERC do under existing authorities to address reliability concerns?

ECAR Response – FERC’s authority to address reliability issues is uncertain. ECAR believes that federal legislation in the U.S. (and comparable action by appropriate governmental bodies in Canada and Mexico) is needed to clearly establish the basis for moving forward in the reliability arena as the electricity industry continues its transition to a restructured state. ECAR further believes that the proper course of action is for the U.S. Congress to follow through on existing legislation (e.g. H. R. 4941) to establish, under government oversight (i.e. FERC in the U.S.), an independent industry self-regulatory reliability organization. We believe it would be counterproductive for DOE or FERC to initiate an electric reliability rulemaking under section 403 of the DOE Organization Act. Congressional legislative action is needed to make clear who has what authority for bulk electric system reliability in the U.S.

Question 3 – If FERC has the authority to establish and enforce reliability standards, may FERC delegate such authority to a self-regulatory reliability organization? Should it do so?

ECAR Response – Again, it is not clear that FERC has such authority now. However, when congressional legislation regarding reliability is passed, FERC should delegate the authority to establish and enforce reliability standards to the NERC-proposed industry self-regulatory reliability organization which is embodied in H. R. 4941. FERC would have a U.S. governmental oversight role similar to the role that the Securities Exchange Commission has over the securities industry self-regulatory organizations.

Question 4 – Are there elements in CECA, or other electric reliability legislative language, which can, with or without modification, be used in a rulemaking?

ECAR Response – The CECA advocates the formation of an industry self-regulating reliability organization which would have the authority, under FERC oversight in the U.S., to establish and enforce compliance with mandatory reliability standards. ECAR believes this is the best approach for ensuring the continued reliability of the interconnected bulk electric systems. However, as stated in the response to Question 2, ECAR believes that federal legislation needs to be enacted (as opposed to a DOE/FERC rulemaking) to appropriately address key issues such as FERC not currently having jurisdiction over a substantial portion of the nation's transmission system, antitrust protection that is critical to implementation of the self-regulatory reliability organization embodied in H. R. 4941, the international dimensions of the interconnected transmission grid in North America, and federal vs state jurisdictional matters.

Question 5 - What should the relationship be between Regional Transmission Organizations, as advanced in FERC Order No. 2000 and an Electric Reliability Organization as proposed in CECA?

ECAR Response – In the evolving restructured electric power industry, there are complementary roles for Regional Transmission Organizations (RTOs) and the NERC-proposed Electric Reliability Organization (NAERO and its affiliated regional reliability entities). FERC Order 2000 specifies that RTOs, as the operators of the bulk transmission systems in the U.S., will be responsible for maintaining the short-term operational security of the systems. FERC Order 2000 also states that the RTOs will operate the transmission systems in accordance with reliability standards to be established by other organizations (i.e. the proposed Electric Reliability Organization including affiliated regional reliability entities as embodied in H. R. 4941). ECAR agrees with this concept of reliability standards being established and enforced by an organization other than the transmission system operators (i.e. the RTOs).

Question 6 – How should the responsibilities and roles of FERC and the States be addressed in a rulemaking?

ECAR Response – The issue of federal and state jurisdiction and responsibilities in the area of reliability must be addressed in legislation. NERC's proposal for reliability legislation to form an independent industry self-regulatory reliability organization (i.e. H. R. 4941) addressed the roles of FERC and States regarding reliability matters.

Question 7 – Recognizing the international nature of the interconnected transmission grid, how could implementation of mandatory reliability standards be coordinated with Canada and Mexico?

ECAR Response – We are not sure how such coordination with Canada and Mexico should be accomplished, but it is very important that decisions about how to manage bulk electric system reliability in North America be made with full cooperation and coordination among appropriate U. S., Canadian, and Mexican governmental authorities.